

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BELLEROCH COMMERCIAL, LLC,

Plaintiff,

Civil Action No. 1:12-cv-00924-PLM  
Hon. Paul L. Maloney

vs.

L&KJ ENTERPRISES, LLC, KAREN  
M. MOLBY, LESLEY JOHNSON,  
DAVID WOLFE, AND GRAND TRAVERSE  
TIRE & WHEEL, INC.,

Defendants.

---

Sheryl A. Laughren (P34697)  
BERRY MOORMAN P.C.  
Attorneys for Plaintiff  
535 Griswold, Suite 1900  
Detroit, MI 48226  
(313) 496-1200

Patrick E. Heintz (P31443)  
BISHOP & HEINTZ, P.C.  
Attorneys for Defendants  
440 W. Front @ Oak, PO Box 707  
Traverse City, MI 49685-0707  
(231) 946-4100

---

Kenneth M. Petterson (P43416)  
Bradley D. Wierda (P63811)  
James C. Baker (P62668)  
SMITH & JOHNSON, ATTORNEYS, P.C.  
Attorneys for Defendants' DAVID WOLFE  
and GRAND TRAVERSE TIRE & WHEEL, INC.  
603 Bay Street; P.O. Box 705  
Traverse City, MI 49685-0705  
(231) 946-0700

---

**MOTION FOR ENTRY OF ORDER OF DISMISSAL AS TO**  
**DEFENDANTS WOLFE AND GRAND TRAVERSE**  
**TIRE & WHEEL, INC.**

NOW COME Defendants DAVID WOLFE and GRAND TRAVERSE TIRE &  
WHEEL, INC., (hereinafter "GTT") by and through counsel, SMITH & JOHNSON,  
ATTORNEYS, P.C., and move this Honorable Court to *sua sponte* enter an Order of Dismissal

as to Defendants WOLFE and GTT, dismissing those Defendants from this case due to the default of Plaintiffs, and in support thereof, state as follows:

1. On November 21, 2012, Defendants WOLFE and GTT filed with this Court and served, a joint Motion to Dismiss/Motion for Summary Disposition as to Plaintiff's First Amended Complaint, pursuant to Fed R Civ P 12(b)(6) and Fed R Civ P 56(a).
2. Pursuant to Local Rule 7.2(c), Plaintiff was required to file a responsive Brief within twenty-eight (28) days of service of the Motion. Local Rule 7.2(c) states in pertinent part:

(c) *Briefing Schedule.* Any party opposing a dispositive motion shall, within twenty-eight (28) days after service of the motion, file a responsive brief and any supporting materials.
3. Under Local Rule 7.2(c), Plaintiff was therefore required to file its Responsive Brief by December 19, 2012.
4. As of the current date of this Motion, December 21, 2012, no Responsive Brief has yet been filed by Plaintiff.
5. Counsel for Defendants WOLFE and GTT has not been contacted by counsel for Plaintiff with regard to a request for an extension of time to file said Responsive Brief.
6. Plaintiff is in default, and Defendants WOLFE and GTT are entitled to entry of an order granting the relief requested in their Motion to Dismiss/Motion for Summary Judgment.

**WHEREFORE**, Defendants Wolfe and GTT request that this Court enter the attached proposed Order of Dismissal granting to them the relief requested in their Motion to Dismiss/ Motion for Summary Judgment. (Docket # 23), to-wit:

- A. Enter an Order dismissing Defendants WOLFE and GTT from this case;

- B. Enter an Order declaring the Resignation Agreement and General Release dated August 17, 2012 null and void and striking Exhibit D of Plaintiff's First Amended Complaint;
- C. Award to Defendants WOLFE and GTT such further and additional relief as this Court finds to be warranted under the circumstances.

SMITH & JOHNSON, ATTORNEYS, P.C.

December 21, 2012

By:/s/Kenneth M. Petterson

Kenneth M. Petterson (P43416)  
Bradley D. Wierda (P63811)  
Barbara A. Assendelft (P38859)  
Attorneys for Defendant David Wolfe  
and GTT